

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

MICHAEL MCCARTHY, et al.,

Plaintiffs,

-against-

CHARLES D. BAKER, et al.,

Defendants.

CIVIL ACTION NO.

1:20-cv-10701-DPW

**PLAINTIFFS' MOTION  
TO STRIKE A PORTION OF  
THE AFFIDAVIT OF  
TERRENCE MACCORMACK**

COME NOW the Plaintiffs, who respectfully move the Court to strike the sentence in paragraph 5 of the Affidavit of Terrence MacCormack (Doc. No. 69) that states, “It was my understanding that the replacement was necessary to address a staff oversight in preparing the revised Exhibit A posted a short while earlier.” In support of this motion, the Plaintiffs state:

1. On May 1, 2020, Defendants filed the Affidavit of Terrence MacCormack, in which Mr. MacCormack attests that he posted the two versions of Exhibit A on March 31, 2020. *See* Doc. No. 69 at ¶¶ 4-5. Included within this Affidavit is the statement, “It was my understanding that the replacement was necessary to address a staff oversight in preparing the revised Exhibit A posted a short while earlier.” *Id.* at ¶ 5.

2. Mr. McCormack’s Affidavit provides no basis for his “understanding” that the change was necessary to address a “staff oversight.” It does not, for example, attest that Mr. MacCormack himself made an oversight when he posted the earlier version of Exhibit A. As such, the statement is inadmissible because it does not come from the witness’s personal knowledge. Fed. R. Evid. 602.

Dated: May 4, 2020

Respectfully submitted,  
THE PLAINTIFFS,  
By their attorneys,

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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 4, 2020.

/s/ David D. Jensen  
David D. Jensen, Esq.